United Nations A/HRC/28/NGO/78

General Assembly

Distr.: General
20 February 2015

English only

Human Rights Council
Twenty-eighth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 February 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-03188 (E)
1503188

Please recycle

INDIA: Criminal justice reforms elementary to control violence against women

After the infamous New Delhi rape case of 2012, and other cases of gender based violence subsequently reported by the media, the Government of India initiated a series of measures to curb violence against women. The government's initiatives have, however, been limited to sensitising communities and instructing the local police to register complaints upon receipt. Amendments were made in 2013 to the Indian Penal Code 1860, The Code of Criminal Procedure 1973, The Indian Evidence Act 1872, and to The Protection of Children from Sexual Offenses Act, 2012. However, none of these steps has reduced the number of sexual offenses committed against women in India.

The Asian Legal Resource Centre (ALRC) is of the opinion that the root cause of the problem lies in the dysfunctional criminal justice machinery in the country. While some of the initiatives taken by the government have been welcome, only if the government is willing to fix the dysfunctional criminal justice machinery can there be effective reduction in crime against women in India.

Justice J.S. Verma, former Chief Justice of India, shares this opinion. In his report to the government, filed in the capacity of the Chairperson of the Judicial Committee appointed by the Government of India, in the wake of the 2012 New Delhi rape case, Justice Verma has stated that "...the root cause behind sexual assault upon women is a failed criminal justice process, particularly the police and delay in prosecutions."

It is this reformation of the criminal justice institutional framework in India that no government has prioritised. The Indian police are notorious for corruption, nepotism, and for the use of brute force to extract confessions and bribes. Scientific crime investigation, if at all carried out, is limited to high-profile cases involving the politically powerful or financially rich. Merit is not observed in recruitment or promotion of officers. Instead, from constable to inspector general, illegal nexus between the officer and politicians draw career graphs. The police force lacks morale, direction, and discipline.

The police in India represent fear and ineptitude. However, it is this very force that victims of sexual abuse have to depend upon for lodging a complaint and further for investigation. It is the same police that file the investigation report in court, based on which a criminal trial takes place. With a flawed investigation, there is not much a prosecutor and a judge can do to serve justice. The inability of the Judiciary to complete trials within a reasonable time only adds to the problem. A failed investigation and a decade long trial not only render the initial complaint meaningless, but also make a mockery of the justice process.

It is this failed criminal justice system that must be re-engineered to end the inferred impunity to the criminal that India's criminal justice process guarantees today. The ALRC urges the UN Human Rights Council to engage with the Government of India to encourage the government to thoroughly review and reform its criminal justice process.